

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

GARRETT HOFFMAN,
Plaintiff,

v.

Civil No. 1:21cv1443 (DJN)

BEAR CHASE BREWING COMPANY,
LLC,
Defendant.

ORDER
(Vacating Order Adopting Report and Recommendations)

This matter comes before the Court on Plaintiff's Motion to Vacate Order (ECF No. 123). Plaintiff seeks to vacate this Court's Order of April 3, 2024 (ECF No. 121), which adopted a Report and Recommendation ("R. & R") issued by United States Magistrate Judge William E. Fitzpatrick and dated March 19, 2024 (ECF No. 120). However, the Clerk's Office did not file (and thereby serve) the R. & R. on Plaintiff's counsel until the morning of the following day, March 20. *See* Fed. R. Civ. P. 5(b)(2)(E) ("filing [a paper] with the court's electronic-filing system" constitutes service). The Federal Rules gave Plaintiff "14 days after being served" with the R. & R. to file his objections to it. *Id.* at 72(b)(2). Plaintiff therefore had 14 days after March 20 to object, and Plaintiff timely did so on April 3, 2024. (ECF No. 122 ("Objections").) Defendant filed no objection.

Due to a docketing error, the deadline to file objections to the R. & R. was displayed on the docket as April 2, 2024. As Plaintiff points out, that calculated deadline was erroneous, and Plaintiff's Objections were timely filed. Accordingly, the Court hereby GRANTS Plaintiff's Motion to Vacate Order (ECF No. 123) and VACATES its Order Adopting Report and Recommendations (ECF No. 121). Magistrate Judge Fitzpatrick's Report and Recommendation


(ECF No. 120), as well as Plaintiff's motions for liquidated damages, costs and fees (ECF Nos. 86, 88, 93, 104 and 114), all remain pending before the Court for disposition.

The Court hereby ORDERS that briefing on Plaintiff's Objections shall proceed according to Local Rule 7(F)(1); specifically, Defendant's deadline to respond to Plaintiff's Objections shall be April 17, 2024, and Plaintiff's deadline to reply to that response shall be April 23, 2024.

Finally, consistent with Local Rule 7(J), the Court NOTIFIES the parties that Plaintiff's Objections will be resolved without oral argument unless the Court orders otherwise on its own initiative or on separate motion. Any motion for oral argument must include an incorporated brief explaining why oral argument will materially aid in the decisional process.

Let the Clerk file a copy of this Order electronically and notify all counsel of record.

It is SO ORDERED.


_____/s/_____
David J. Novak
United States District Judge

Richmond, Virginia
Date: April 4, 2024